

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NOBILIS HEALTH CORP.,

Debtor.

ALFRED T. GIULIANO, in his capacity as Chapter 7 Trustee for the jointly administered bankruptcy estates of Nobilis Health Corp., *et al.*,

Appellant,

v.

HARRY J. FLEMING, *et al.*,

Appellees.

ALFRED T. GIULIANO, in his capacity as Chapter 7 Trustee for the jointly administered bankruptcy estates of Nobilis Health Corp., *et al.*,

Appellant,

v.

HARRY J. FLEMING, *et al.*,

Appellees.

Chapter 7

Case No. 19-12264 (CTG)

C.A. No. 24-737 (MN)  
Bankr. BAP No. 24-0039

C.A. No. 24-738 (MN)  
Bankr. BAP No. 24-0040

**ORDER CONSOLIDATING APPEALS  
AND STAYING BRIEFING PENDING DOCKETING  
OF RELATED OBJECTIONS AND RESPONSES PURSUANT  
TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9033**

**BACKGROUND**

A. The above-captioned appeals (collectively, the “Appeals”) arise out of the

*Memorandum Opinion and Proposed Findings of Fact and Conclusions of Law* [Bankr. Adv.

Docket No. 257 (Adv. Pro 21-51183)] and [Bankr. Adv. Docket No. 43 (Adv. Pro 23-50486)] entered by the Bankruptcy Court on June 12, 2024 (the “June 12 Opinion”), and the Orders entered in connection with the June 12 Opinion.

B. In the June 12 Opinion, the Bankruptcy Court, in the adversary proceeding docketed at 21-51183-CTG (the “Breach of Fiduciary Duty Adversary”): 1) entered final judgment in favor of Defendants Fleming, Young, and Moreno; 2) issued proposed findings of fact and conclusions of law recommending that the District Court grant summary judgment in favor of Defendants Efird, Ozonian, and Rodriguez; and, 3) granted Defendants Fleming, Young, and Moreno’s motion to dismiss the Trustee’s claim for equitable subordination in a related adversary proceeding docketed at 23-50486-CTG (the “Equitable Subordination Adversary”).

C. The Trustee appealed the Order entering summary judgment in favor of Defendants Fleming, Young, and Moreno in the Breach of Fiduciary Duty Adversary, with the appeal docketed at 1:24-cv-00737-MN, and the Order granting the motion to dismiss in the Equitable Subordinary Adversary, with the appeal docketed at 1:24-cv-00738-MN.

D. The Trustee also filed Objections Pursuant to Federal Rule of Bankruptcy Procedure 9033 to the Proposed Findings of Fact and Conclusions of Law in the June 12 Opinion as relates to Defendants Efird, Rodriguez and Ozonian (the “Objections”), with Appellees’ responses (the “Responses”) to the Objections due to be filed in the Bankruptcy Court on or about August 28, 2024, after which the Objections and Responses will be transmitted to the District Court and a new docket number assigned, resulting in three separate District Court docket numbers for the Appeals and Objections.

E. The parties to the Appeals have respectfully submitted that the Appeals and Objections, all of which derive from the June 12 Opinion, are substantially related as to the facts

and governing legal principles and that, in the interests of judicial economy, should be consolidated on appeal and that briefing of the Appeals should be stayed pending transmission of the Objections and Responses from the Bankruptcy Court to the District Court.

AND NOW, at Wilmington, this 14th day of August 2024, it is hereby ORDERED that:

1. Briefing in the Appeals is stayed pending submission by the Bankruptcy Court to the District Court of the Objections, along with the Responses, and the assignment of a District Court docket number with respect to the Objections.
2. Within seven (7) days after the Objections have been assigned a District Court docket number, the parties shall submit to the District Court a proposed Order for consolidating the Appeals with the Objections, along with a proposed briefing schedule and procedure to incorporate the Objections and Responses to minimize repetition and efficiently brief the Appeals.

  
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The Honorable Maryellen Noreika  
United States District Judge